

To: CN=Robert Goo/OU=DC/O=USEPA/C=US@EPA[]
Cc: []
Bcc: []
From: CN=Don Wayne/OU=DC/O=USEPA/C=US
Sent: Tue 8/21/2012 7:12:05 PM
Subject: Re: URGENT: Oregon's OSDS Proposal Including Proposed Boundaries Acceptable?

Robert,

This is a follow-up to our phone conversation a few minutes ago. It turns out that there's only one county that they are suggesting to split up (Lane Co. in the middle), and they want to do this by township and range. If you take a look at Lane County, there is a HUGE portion that lies outside of the 6217 management area (probably ~3500 square miles), and there is a sizeable population there, too (Eugene-Springfield urban area is second-largest in state, with roughly 350,000 people). The other 2 counties (Jackson and Curry to the south) show up as somewhat split on the map, but under the rule, the entire counties would be subject. Here's what Randy Trox with Or DEQ had to say about the boundary.

Boundary Adjustments

Oregon proposes to adjust the boundary for the time of transfer septic system inspection to make implementation of the program easier. The strategy proposed is to limit the time of transfer rule to counties where the bulk of the county is in the zone and not implement the rule where it is limited and the population isn't significant. The exception is Lane County where there is a good chunk both in and out of the coastal zone, so we had to try to draw it up by township and range. The proposed boundary would be all of the following counties: Clatsop, Tillamook, Lincoln, Coos, Curry, Josephine, Jackson. Lane County boundary would be all portions of the following Townships/Ranges; 15S/07W, 16S/07W, 17S/08W, 18S/07W, 19S/06W, 20S/05W (all points westward of the afore-mentioned townships/Ranges to the Pacific Ocean are also included).

The first attachment shows that the proposal to amend the boundary still captures 98% of the CNPCP boundary.

Jackson and Curry are not drawn to capture the whole county and instead has the CNPCP boundary; however, the draft rule is written for the whole county, again to try to have a consistent implementation message on who is in and who is out. Lane County eastern boundary will be the primary challenge. The good news is the program's HQ is in Lane County.

Therefore, I am not comfortable asking Oregon to consider expanding the rule to include the rest of Lane County. We are not justified in asking Oregon to do this since it lies outside the 6217 management area and the portion outside includes the bulk of the area and population.

Don

From: Don Wayne/DC/USEPA/US
To: Robert Goo/DC/USEPA/US@EPA
Date: 08/21/2012 02:27 PM
Subject: Re: URGENT: Oregon's OSDS Proposal Including Proposed Boundaries Acceptable?

"I don't see how they can have different standards for only part of a county."

This is, in fact, why they want to tinker with the boundary line. The county lines don't match up perfectly with the 6217 management area. The counties they are choosing to apply the rule to represent a very

close approximation of the CNP boundary.

You would realize this if you just peeked at the JPG attachment that I forwarded you.

In the case of Benton and Columbia counties, they are making the decision to exclude the entire counties. The vast majority of the population in these counties is outside the CNP area, so they did not want to subject this population to something that they felt belonged elsewhere across the watershed divide. The areas of exclusion are along a rugged divide and the predominant land use around the rugged divide is forestry/timber. Very few folks live up there and the few that do are pretty isolated, so the septic systems are not generating much pollution even if they eventually fail.

From: Robert Goo/DC/USEPA/US
To: Don Waye/DC/USEPA/US@EPA
Date: 08/21/2012 02:07 PM
Subject: Re: URGENT: Oregon's OSDS Proposal Including Proposed Boundaries Acceptable?

Don,

If they are changing their boundaries to exclude areas where the population is not significant, what are they accomplishing with the boundary change? How does excluding 2% of the boundary really change things? Is this a political move? I don't see how they can have different standards for only part of a county. This would seem to be inconsistent policy and unfair.

Robert

From: Don Waye/DC/USEPA/US
To: Jayne Carlin/R10/USEPA/US@EPA
Cc: allison.castellan@noaa.gov, MikeO Cox/R10/USEPA/US@EPA, Robert Goo/DC/USEPA/US@EPA
Date: 08/21/2012 01:16 PM
Subject: Re: URGENT: Oregon's OSDS Proposal Including Proposed Boundaries Acceptable?

Jayne & others,

I've included Robert Goo to the cc's and am asking him to weigh in on this. I have also removed Randy Trox with Oregon DEQ from the distribution list. As a matter of protocol, it is better for us all to be on the same page before communicating with state folks, rather than dribbling our opinions individually to Randy.

That said, I do not have a problem with the boundary revisions if this makes the geographic application of the proposed rule more expedient. In my opinion, there are 2 counties with significant areas that lie outside of the rule's applicability but within the CNP boundary: Columbia County in the north and Benton county in the middle. In both cases, there is little population in those portions of these counties. The land use is largely forestry/timber, so I do not anticipate many new additional septic systems being installed in these areas. Also, the new draft evaluation form looks great to me.

Don Waye
U.S. Environmental Protection Agency
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From: Jayne Carlin/R10/USEPA/US
 To: Don Waye/DC/USEPA/US@EPA, MikeO Cox/R10/USEPA/US@EPA
 Cc: TROX.Randall@deq.state.or.us, allison.castellan@noaa.gov
 Date: 08/14/2012 02:27 PM
 Subject: URGENT: Oregon's OSDS Proposal Including Proposed Boundaries Acceptable?

Hi All,

Randy (Oregon DEQ) sent an email asking for our approval for Oregon's general OSDS approach and proposed boundaries. He has a Secretary of State filing due tomorrow, so he is feverishly scheduling public hearings for the middle of next month. After the filing is done, Randy will begin getting a fact sheet together and presentation materials. If Oregon's proposal isn't going to fly, they'll need as much time as possible to figure things out.

Mike provided comments on their approach (see below) and Allison stated "OR's proposal to adjust boundary for OSDS inspections seems reasonable to me and would still capture the vast majority of the systems. I'll let EPA, as the technical experts, make a final decision."

I cc'ed Randy in case I did not capture the issue correctly.

What do you think? Is the proposed approach for setting the boundaries acceptable? Do we give him our blessing to proceed?

Boundary Adjustments

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[attachment "CNPCP_population_analysis.xlsx" deleted by Robert Goo/DC/USEPA/US] [attachment "CNPCP_draft_Regulatory_boundary_02AUG2012.jpg" deleted by Robert Goo/DC/USEPA/US]

Time of Transfer Outline and Draft Reporting Form

Attached are the draft outline and report form. The outline provides Oregon's current thinking and Randy used the term 'outline' pretty loosely as it's very close to being a section of rules. The draft form is provided so you can get an idea of how the information will come to us. Our intent is to have it submitted electronically and problem reports will be flagged. I'm not sure what our staffing will be to address the bad eggs or whether we will route to local agents (some are county-run and some are DEQ-run) for them to follow up.

Comment from Mike: "It appears to me that the attached Time of Transfer Outline basically extends the time of transfer evaluation requirement from all alternative on site wastewater disposal systems to standard wastewater disposal systems as well within the proposed geographic boundary. The Time of Transfer Outline also lays out the process for evaluation of existing on site wastewater disposal systems, mirroring the Oregon Administrative Rules (OAR) (excerpts attached). What I did not see in the Time of Transfer Outline was the prohibition of discharge from a failing on site wastewater system as found in OAR 340-071-0130 (3)."

Response from Randy: "Current rules require a time of transfer inspection of alternative treatment technologies (i.e. aerobic systems), and we are maintaining similar rules expanded to require a time of transfer of all septic systems in the designated zone. As far as adding a prohibition of a failing system to the proposed rules, section 130 are 'general standards, prohibitions, and requirements for new and existing systems, so we have legal authority in place to require a repair if a failing system is discovered."

[attachment "ToTOOutlineDraft.pdf" deleted by Robert Goo/DC/USEPA/US] [attachment "Time of Transfer Evaluation Form2B.pdf" deleted by Robert Goo/DC/USEPA/US]

Regards,

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<http://www.epa.gov/r10earth/tmdl.htm>